

DDA 78-0166

13 January 1978

Executive Registry
78-8112

NOTE FOR: Acting Deputy Director of Central Intelligence

THRU : Acting Deputy Director for Administration *W*

FROM : [redacted]
Assistant for Information, DDA

SUBJECT : Lifting the Moratorium on Destruction of Agency Records

1. The implementing instructions for the destruction of Agency records are contained in the attached proposed revision of [redacted]. When the notice reached OGC for coordination, questions were raised about our obligations to Congressional committees other than the Senate Select Committee on Intelligence. Implicit in the questions seemed to be the presumption that we might have to clear our records destruction policy and schedules with the House Select Committee on Intelligence, House Select Committee on Assassinations, and the committees on Ethics in both houses of Congress (because of their investigations into the Korean "scandal").

2. I met on Wednesday afternoon with [redacted] representing OGC, and [redacted] to try to identify what other commitments we had made in this area of records destruction policies. It became apparent that our only clearly articulated obligation was to the House Select Committee on Assassinations, which was told in a December 1976 letter from the DCI that it would be given an opportunity to review our records disposal schedules. Other committees have requested specific information, but none has requested that it be involved with the Agency's records disposal schedules. (Tom Latimer of the HSCI, in response to a question from OLC's [redacted] said he was not interested in seeing the schedules.)

3. In an effort to move quickly to clear up this last impediment, I asked [redacted] to invite G. Robert Blakey, Chief Counsel for the Committee on Assassinations, to sit down with some of our records people and to go through some of our disposal schedules with us. It was my hope that we would be able to demonstrate to Blakey that it would be possible for us to proceed with routine destruction without jeopardizing our ability to respond to his Committee's requests for information relevant to their investigation.

STAT 4. I was too optimistic. On Friday morning, 13 January, [redacted] called to say that Blakey was not prepared to discuss records disposal with us. [redacted] went on to say that it was apparent that the Assassinations Committee staff was attempting to complete its research in order to finish its report before the end of this session of Congress. He felt, therefore, that we should defer further action until the Committee's information needs have been met.

5. I preferred a more active approach and have asked [redacted] to explore with various records officers the possibility of identifying specifically and precisely various collections of information which are disposable under the records schedule and which would clearly not be relevant to the investigation on assassinations. If we can submit a sufficiently detailed list of such files, we may yet be able to obtain permission to begin an orderly process of records disposal.

[redacted]

Attachment: a/s

DRAFT
[Redacted Box]
9 JAN 79

CIA RECORDS DESTRUCTION POLICY

Rescission: [Redacted Box] dated 7 September 1976

Reference :

1. This notice informs CIA employees of the requirements that must be met before Agency records may be destroyed. In a letter to the DCI dated 21 December 1977, the Chairman of the Senate Select Committee on Intelligence noted in part that the "moratorium" on destruction of intelligence and investigative records originally requested by the Senate had expired and therefore, "all agencies maintaining records pursuant to the moratorium may return to normal records destruction policies." The requirements of the Agency's "normal records destruction policies" are outlined below, and procedures are presented in paragraph 2.

a. The United States Code, Title 44, Chapter 33, Disposal of Records, defines "records" as including "all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them." (44 U.S.C. 3301)¹

b. Federal records may not be destroyed without prior authorization by the Archivist of the United States. The Archivist authorizes destruction by signing Standard Form 115, Request for Records Disposition Authority, which identifies series of related records and specifies the time for their destruction. Within the Agency, CIA Form 139, Records Control Schedule, which includes additional detail, is used to implement the dispositions approved on SF 115. Copies of SF 115 and Form 139 are provided to the Senate Select Committee on Intelligence at least 60 days prior to their implementation.

c. Other considerations are of equal importance in deciding whether to destroy CIA records. These considerations include legislation such as the Freedom of Information Act and the Privacy Act, litigation such as federal antitrust suits and personal lawsuits, and matters under investigation by the Department of Justice or Congress. Although records subject to legal or investigative requirements are identified

¹ "Records" include documents, whether in "soft" files or "official" files, that deal with record matters as defined above and are not merely duplicates of official record copies filed elsewhere in the Agency; records also include such things as appointment calendars, diaries, and notes if they deal with record matters as defined above.

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when a requirement arises, it is necessary to ensure that they are not inadvertently destroyed. Therefore, before destroying any Agency records, whether on paper, magnetic tape, film, or other recording media, it must be determined that there are no actual or impending legal or investigative requirements for the records.

2. The Agency Records Management Officer (Chief, Information Systems Analysis Staff, DDA), in coordination with other Agency officials, is responsible for ensuring that CIA records are properly maintained and destroyed in accordance with the above requirements. To ensure compliance, the following steps must be taken:

a. Before destroying any records, each employee must consult the component Records Management Officer (RMO) and the custodian of the records to verify that the records are scheduled for immediate destruction on an approved Form 139, Records Control Schedule. If the records are not scheduled for immediate destruction, they may not be destroyed unless the Agency RMO obtains approval to amend the records control schedule by submitting an SF 115, Request for Records Disposition Authority, to the Archivist of the United States.

b. Records relating to pending Freedom of Information Act or Privacy Act requests to the Agency are subject to additional retention periods established by the Archivist and included in the records control schedules. Normally, requested records are duplicated in their entirety at the time of a request, and the duplicate copies are maintained in accordance with the retention period for the related request. However, if such duplication is not practical, the records are instead flagged at the time of the request, using Form 4016, Information Request Flag, and must be segregated later from the record series at the time the record series is being processed for destruction. Alternatively, all records in process for destruction may be checked against an automated index of FOIA/PA requirements.

c. It also must be determined that records being processed for destruction are not related to actual or impending litigation or to matters under investigation by the Department of Justice or Congress. The initial determination will be made by the component RMO and the custodian based on their review of the records and on information provided by the General Counsel to the component RMO through the Agency and directorate RMO's. If the initial review raises any question as to actual or impending legal or investigative requirements for the records, authority to destroy them must be obtained by routing Form 141c, Request

for Authorization to Retain or Destroy Questionable Records, through the custodian and the component and directorate RMO's to the Records Administration Branch, ISAS. The Agency RMO will obtain the concurrence of the General Counsel prior to approving the actual destruction of the records. (If approval is denied, the Agency RMO must submit to the Archivist a request for authorization to retain the records longer than originally scheduled.)

3. "Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents" are excluded from the 44 U.S.C. 3301 definition of "records" and may be destroyed when no longer needed.²

4. Questions on implementing this policy should be directed to the component Records Management Officer.

STANSFIELD TURNER
Director

Attachments:

1. Form 141c
2. Form 4016

DISTRIBUTION: ALL EMPLOYEES

² "Non-records" include:
"Reading file" or "chrono" copies of correspondence that are duplicates of the record copies filed in subject or project files.
"Tickler", "follow-up", or "suspense" copies of correspondence.
Identical duplicate copies of documents maintained in the same file.
Extra copies of printed or processed materials, official copies of which have been retained for record purposes.
Library reference collections of documents produced by other agencies, where the originating agency is responsible for maintaining the record copy.
Superseded manuals and other directives, maintained outside the office responsible for retaining the record set.
Routing slips and transmittal sheets without written comment of record value.
Drafts and stenographic materials which have been transcribed; reproduction materials such as stencils, hectograph masters, and offset plates.
Blank forms.
Catalogues, trade journals, and similar externally produced publications which require no action and are not part of a case upon which action is taken.
Desk calendars and notes which do not deal with record matters as defined in paragraph 1a above.

Approved

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5R000100010039-1

REQUEST FOR AUTHORIZATION TO RETAIN OR DESTROY QUESTIONABLE RECORDS

1. DESTRUCTION AUTHORIZATION NO. (Assigned by RAB)

TO : Chief, Information Systems Analysis Staff, DDA
 THRU: Component Records Management Officer
 Directorate Records Management Officer
 Records Administration Branch, ISAS/DDA
 Office of General Counsel

FROM: (OFFICE DESIGNATION OF ORIGINATOR)

2. DATE PREPARED

THE RECORDS IDENTIFIED BELOW ARE SCHEDULED FOR IMMEDIATE DESTRUCTION; HOWEVER, THEY MAY BE SUBJECT TO ACTUAL OR IMPENDING LEGAL OR INVESTIGATIVE REQUIREMENTS. AUTHORIZATION IS REQUESTED EITHER TO RETAIN THE RECORDS OR TO DESTROY THEM AS SCHEDULED. THE RECORDS ARE BEING HELD PENDING RECEIPT OF AUTHORIZATION. IF FURTHER RETENTION IS REQUIRED, REVISED DISPOSITION INSTRUCTIONS MUST BE PROVIDED TO RECORDS ADMINISTRATION BRANCH, ISAS.

IDENTIFICATION OF RECORDS

3. OFFICE	4. SCHEDULE NO.	5. ITEM NUMBER	6. INCLUSIVE DATES	7. VOLUME (cu. ft.)
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8. PROVIDE DETAILED DESCRIPTION AND LISTING OF RECORDS AND/OR ATTACH COPY OF FORM 140 AND 140A, MARKED TO INDICATE WHICH RECORDS ARE QUESTIONABLE. EXPLAIN BASIS FOR DETERMINING THAT RECORDS ARE QUESTIONABLE.

CONTINUED ON SEPARATE PAGE

9. TYPED NAME AND SIGNATURE OF CUSTODIAN OF RECORDS	EXTENSION	DATE
10. TYPED NAME AND SIGNATURE OF COMPONENT RECORDS MANAGEMENT OFFICER	EXTENSION	DATE
11. TYPED NAME AND SIGNATURE OF DIRECTORATE RECORDS MANAGEMENT OFFICER	EXTENSION	DATE

AUTHORIZATION TO RETAIN OR DESTROY RECORDS

RETAIN ALL <input checked="" type="checkbox"/>	12. TYPED NAME AND SIGNATURE OF GENERAL COUNSEL REPRESENTATIVE	EXTENSION	DATE
RETAIN PARTIAL <input checked="" type="checkbox"/>			
DESTROY ALL <input type="checkbox"/>			
APPROVED	13. TYPED NAME AND SIGNATURE OF CHIEF, INFORMATION SYSTEMS ANALYSIS STAFF		DATE

14. PROVIDE JUSTIFICATION FOR CONTINUED RETENTION. ALSO PROVIDE PROPOSED NEW DISPOSITION INSTRUCTIONS.
 INDICATE UNDER SECTION 8 ABOVE WHICH RECORDS ARE TO BE RETAINED. THOSE NOT INDICATED FOR RETENTION ARE AUTHORIZED FOR IMMEDIATE DESTRUCTION.

CONTINUED ON SEPARATE PAGE

INFORMATION REQUEST FLAG

THIS FORM IS USED TO SAFEGUARD FROM INADVERTENT DESTRUCTION RECORDS THAT ARE INVOLVED IN FREEDOM OF INFORMATION ACT OR PRIVACY ACT REQUESTS, LITIGATION, OR MATTERS UNDER INVESTIGATION BY THE DEPARTMENT OF JUSTICE OR CONGRESS. IT MUST BE FILED IN THE FRONT OF A FOLDER TO LIST ALL DOCUMENTS IN THE FOLDER RELATED TO A SPECIFIC REQUEST (*one form for each request*), OR AS A SINGLE ATTACHMENT TO EACH INDIVIDUAL DOCUMENT. IT MUST NOT BE REMOVED FROM THE DOCUMENT OR FOLDER UNTIL THE RECORD SERIES IS DUE FOR DESTRUCTION IN ACCORDANCE WITH APPROVED RECORDS CONTROL SCHEDULES AT WHICH TIME DISPOSITION OF FLAGGED RECORDS WILL BE CHECKED WITH THE COMPONENT RECORDS MANAGEMENT OFFICER AND OTHER AUTHORITIES AND WILL BE DEPENDENT ON THE STATUS OF EACH REQUEST.

TYPE OF REQUEST

PRIVACY ACT	CONGRESSIONAL INVESTIGATIONS	OTHER (<i>specify</i>)
FOIA	DEPT. OF JUSTICE INVESTIGATIONS	
LITIGATION	MANDATORY CLASSIFICATION REVIEW	

REQUESTER	REQUEST NO.
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SUBJECT OF REQUEST	DATE OF REQUEST
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DOCUMENTS SUBJECT TO REQUEST - INCLUDE FILE NO., SYMBOL, DATE AND SUBJECT

CONTINUED ON SEPARATE PAGE

REMARKS

CONTINUED ON SEPARATE PAGE

DATE OF COMPONENT RESPONSE	DATE APPEALED (<i>if applicable</i>)
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DO NOT REMOVE THIS FORM FROM THIS FILE

INFORMATION REQUEST